

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**CYNTHIA G. SMITH,
Plaintiff,**

v.

**SAM'S CLUB,
Defendant.**

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CIVIL CASE NO. 3:15-CV-2748-K-BK

**RECOMMENDATION REGARDING REQUEST TO PROCEED
IN FORMA PAUPERIS ON APPEAL**

Before the Court is Plaintiff's request to proceed *in forma pauperis* on appeal. Doc. 59. Upon consideration of the motion, the relevant portions of the record, and the applicable law, it is recommended that the motion to proceed *in forma pauperis* on appeal be **DENIED**. It is further recommended that, pursuant to FED. R. APP. P. 24(a) and 28 U.S.C. § 1915(a)(3), the Court certify that Plaintiff's appeal is not taken in good faith. In light of the Court's August 9, 2018 order, denying Plaintiff's motion to reopen, there are no non-frivolous issues for appeal in this case. *See Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983) (per curiam) (an appeal is not taken in good faith when it fails to present non-frivolous issues).

Although this appeal should be certified as not taken in good faith under 28 U.S.C. § 1915(a)(3) and FED. R. APP. P. 24(a)(3), the plaintiff may challenge this finding by filing a separate motion to proceed *in forma pauperis* on appeal with the Clerk of Court, U.S. Court of Appeals for the Fifth Circuit, within 30 days of the District Court's Order making such finding.

SIGNED August 21, 2018.


RENEE HARRIS TOLIVER
UNITED STATES MAGISTRATE JUDGE